

## PHARMACY BOARD[657]

### Adopted and Filed

#### Rule making related to Iowa prescription monitoring program

The Board of Pharmacy hereby amends Chapter 37, “Iowa Prescription Monitoring Program,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 124.554.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 124.551, 124.553 and 124.554 as amended by 2020 Iowa Acts, Senate File 2120.

#### *Purpose and Summary*

These amendments implement changes made to the Iowa Code during the 2020 Legislative Session, including the reporting of Schedule V controlled substances to the database and veterinarian access to program data, and revise the definition of “health care professional.”

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 30, 2020, as **ARC 5369C**.

The Board received comments from the Iowa Veterinary Medical Association (IVMA) and a current prescription monitoring program (PMP) delegate. The IVMA recommended the addition of the phrase “or client’s” in relation to the requirement of a pharmacist to check the PMP prior to dispensing a Schedule V controlled substance without a prescription. The current PMP delegate expressed concern that the changes would result in the delegate being prohibited from serving as a delegate. The Board determined that the delegate’s status on a registry maintained by the Department of Inspections and Appeals would qualify the delegate to continue serving as a practitioner’s delegate.

The Board agreed with the suggested addition by the IVMA and revised paragraph 37.16(2)“b” as suggested. In addition, the words “which sale” were added to paragraph 37.7(1)“d” in Item 3 for clarity.

#### *Adoption of Rule Making*

This rule making was adopted by the Board on March 10, 2021.

#### *Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on May 12, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule **657—37.2(124)**, definitions of “Controlled substance,” “Health care professional” and “Reportable prescription,” as follows:

“*Controlled substance*” means a drug in Schedules II through ~~IV~~ V set forth in Iowa Code chapter 124, division II.

“*Health care professional*” means a person who, by ~~education, training,~~ certification, registration, or licensure, is qualified to provide and is engaged in providing health care to patients. “Health care professional” does not include clerical or administrative staff. A health care professional shall be ~~licensed, registered, certified, or otherwise~~ credentialed in a manner that permits verification and regulation of the health care professional's credentials.

“*Reportable prescription*” means the record of a controlled substance administered or dispensed by a practitioner and the record of an opioid antagonist dispensed by a practitioner or administered by a first responder. “Reportable prescription” shall not include records identified in subrule 37.7(1). “Reportable prescription” shall include, but not be limited to:

1. to 3. No change.
4. The dispensing of a controlled substance sample; ~~and~~
5. The dispensing of a controlled substance or opioid antagonist to a patient upon discharge from a hospital or care facility; ~~and~~
6. The dispensing of a Schedule V controlled substance without a prescription pursuant to rule 657—10.33(124,155A).

ITEM 2. Adopt the following **new** definitions of “Client” and “Patient” in rule **657—37.2(124)**:

“*Client*” means the owner, owner's designee, or other person responsible for an animal patient.

“*Patient*” means a person or animal to whom a prescription is prescribed or dispensed.

ITEM 3. Adopt the following **new** paragraph **37.7(1)“d”**:

*d.* The sale by a licensed pharmacy of a Schedule V controlled substance without a prescription which sale is subject to the reporting requirements of 657—Chapter 100.

ITEM 4. Amend rule 657—37.8(124) as follows:

**657—37.8(124) PMP reporting—dispensing prescribers.** Each dispensing prescriber, unless exempt pursuant to rule 657—37.7(124), shall submit to the PMP a record of each reportable prescription dispensed during a reporting period pursuant to subrule 37.12(2). For purposes of prescriber dispensing, the prescriber shall also be identified as the dispenser or pharmacy. A veterinarian may, but shall not be required to, submit to the PMP a record of reportable prescriptions dispensed by the veterinarian.

ITEM 5. Amend subrule 37.16(1) as follows:

**37.16(1) Prescribers.** A prescriber may access a patient's prescription history report; the prescriber's activity report; proactive alerts or system user notes, such as peer-to-peer communication; and NarxCare reports. A veterinarian with authority to prescribe controlled substances may access a current patient's or client's prescription history report if the veterinarian has a reasonable basis to suspect the client may be abusing drugs or mistreating an animal.

ITEM 6. Amend subrule 37.16(2) as follows:

**37.16(2) Pharmacists.**

a. A pharmacist may access a patient's or client's prescription history report; proactive alerts or system user notes, such as peer-to-peer communication; and NarxCare reports.

b. A pharmacist shall review a patient's or client's prescription history report prior to dispensing a Schedule V controlled substance without a prescription pursuant to rule 657—10.33(124,155A).

[Filed 3/15/21, effective 5/12/21]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/7/21.